

P.O.S.T. BOARD MEETING
RECORD OF PROCEEDINGS
December 7, 2007

The Peace Officer Standards and Training Board held its 361st Board meeting at the Department of Law in Denver, Colorado with the following in attendance:

BOARD MEMBERS

CHIEF AL BELL
SHERIFF JAMES BEICKER
CHIEF HEATHER A. COOGAN
SHERIFF JAMES FAULL
COMMISSIONER SARA J. FISHER
CHIEF DENNIS HARRISON
SHERIFF STAN HILKEY
CHIEF JOHN PATTERSON
SHERIFF JOE PELLE
PUBLIC MEMBER BOB PENCE
CHIEF PAUL D. SCHULTZ
ATTORNEY GENERAL JOHN SUTHERS
OFFICER NEAL TYLER
SHERIFF LOUIS VALLARIO
CHIEF GERALD WHITMAN

BOARD MEMBERS ABSENT

SHERIFF JAMES ALDERDEN (excused)
SAC ROBERT J. GARRITY, JR. (excused)
CORPORAL CURTIS MORENO (excused)
EXECUTIVE DIRECTOR PETER WEIR (excused)

BOARD COUNSEL

DIANE MARIE DASH, Assistant Attorney General

STAFF MEMBERS

JOHN KAMMERZELL, P.O.S.T. Director
STEVE ZOTOS, P.O.S.T. Deputy Director/Training Manager
RUTH VANDERBROEK, P.O.S.T. Compliance Officer
CRISTINE MACK, P.O.S.T. Investigator
MARY O'SHEA, Training Program Coordinator
LISA TONEY, Administrative Assistant

MEMBERS OF THE PUBLIC IN ATTENDANCE

PHIL BACA, Jefferson County Sheriff's Office
GREGG BLUEMEL, Citizen
MIKE CARTER, Community College of Aurora Police Academy
STEVE CHAGOLLA, Denver Police Department
DEAN CURD, County Sheriff's of Colorado
RODGER C. DALEY, Attorney
GLENN DAVIS, Colorado Department of Transportation
GRAHAM DUNNE, Aurora Police Department
MICHAEL ESTERS, Larimer County Sheriff's Office
ERIC GONZALES, Pueblo Police Department
EVA GRAZIANO, Red Rocks Community College
BRIAN HILL, Federal Reserve Police Department
KRIS HUND, Citizen
SCOTT JARMIN, Brighton Police Department
DONN KRAEMER, Lakewood Police Department
AMY LARSON, Public
KRISTI MCDONALD-QUINTANA, Colorado State Parks
STEVE OULLIBER, Aurora Police Department
GENE RAGULSKY, Pueblo Police Department
JOEL F. SHULTS, Adams State College
RICHARD STENSGAARD, Denver Police Department
JOE THOMAS-HAZELL, Citizen
ERIC WITTMAN, Aurora Police Department
RICK YOUNG, Citizen

The following Subject Matter Expert Committees met prior to the regular P.O.S.T. Board meeting on December 7, 2007.

Arrest Control Committee
Curriculum Committee
Firearms Committee
Driving Committee

Introductions:

1. Welcome Attorney General John W. Suthers
2. Introduction of Board Members, Staff, SME Members and Guests

During the introductions, Attorney General Suthers congratulated Division Chief Phil Baca on his appointment as Chief of Police for Commerce City.

3. Roll Call – P.O.S.T. Director John Kammerzell
Declaration of a Quorum

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4. Approval of P.O.S.T. Board Minutes for September 14, 2007

One correction needed to be made to the spelling of Sheriff Pelle's name.

Approved Unanimously

Presentations:

5. Skills Subject Matter Expert Committee Reports

A. Arrest Control Cpl. Richard Stensgaard, Co-Chairman

Cpl. Stensgaard reported that the committee approved a number of full and assistant instructors for the Pikes Peak, Colorado State Patrol, Jefferson County, Aurora, El Paso, Pueblo, Western Colorado, and Adams County academies.

The committee will also be looking at their agenda for 2008 and making changes to the ACT Program.

B. Firearms Parks Assistant Regional Manager
Kristi McDonald-Quintana, Chairwoman

Parks Manager Quintana reported that the committee approved eight full skills instructors, eighteen assistant instructors and denied three assistant instructors. There was also an inspection conducted at the Lakewood Police Academy and the committee gave the academy a rating of "very good".

C. Law Enforcement Driving Sergeant Al Padilla, Chairman

Corporal Steve Chagolla of Denver Police Department reported that the committee approved the safety plan, driving plan, and driving track for Dawson's Ridge in Adams County.

The committee also certified two assistant instructors for the Mesa County Sheriff's Office.

Corporal Chagolla also stated that Littleton Police Chief Heather Coogan will be joining the committee as the P.O.S.T. Board Representative.

D. Curriculum Division Chief Phil Baca, Chairman

Division Chief Baca stated that the committee continued their discussion regarding academy evaluation, instructor evaluation, and class evaluation forms which they continue to work on.

The committee also discussed issues related to DUI standards for Colorado and proposed modifications. The committee also discussed future matters regarding leadership and fitness issues.

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The report also included the sub-committee and Board approval of the application of the Federal Protective Service Officers, as well as a request from the Colorado Association of Institutional Law Enforcement Directors (CAILED) for revision of state statutes. Additionally, the report contained the Board's approval of the recommended statute revision to the section for Fire Arson Investigators, and submitted on behalf of the Colorado Chapter of the International Association of Arson Investigators (CIAAI).

The report also included information and the Sub-committee and Board's decision not to recommend consideration or approval of the application submitted on behalf of the Douglas County School Security Offices (DCSD), Douglas County School District Re.1.

8. Appointment of the 2008 P.O.S.T. Peace Officer Training Project Sub-committee
General Suthers

A. Membership Appointments

1. 2007 Committee - Chief Dennis Harrison (Chair), Chief John Patterson, Chief John Hall, Sheriff Stan Hilkey, Officer Neal Tyler, Sheriff Lou Vallario, Mayor Jack Darnell.

B. Sub-committee Update

Attorney General Suthers advised the Board that because of the resignations of Chief Hall and Mayor Jack Darnell, two vacancies need to be filled by one Chief and one additional Board member.

Director Kammerzell stated that he spoke with Chief Paul Schultz and Commissioner Sarah Fisher about the positions. Both Chief Schultz and Commissioner Fisher agreed to serve. A motion was made and seconded to appoint both to the Training Project Sub-committee.

Approved Membership Unanimously

9. Formal Board recognition of the 2008 Subject Matter Expert (SME) Committee members
Director Kammerzell

A. SME Committee Roster – Advanced Officer Training Committee, Arrest Control Training, Curriculum, Driving and Firearms

Director Kammerzell recognized each individual for their participation including the newly appointed Sgt. Lawrence.

Attorney General Suthers and Director Kammerzell thanked the agencies for allowing their people to participate in these committees and their expertise they bring to the Board.

***Due to time constraints, Attorney General Suthers and the Board proceeded to item #11, Peace Officer Certification Revocation Actions.**

A. P.O.S.T. Rule 9 – Revocation of Peace Officer Certifications – Felony Convictions:

§ 24-31-305 C.R.S. (2005) A Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section shall be suspended or revoked by the P.O.S.T. Board if the certificate holder *has been convicted of a felony*, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305 C.R.S. (2005), or, has otherwise failed to meet the certification requirements established by the Board. For purposes of this rule, the term ‘conviction’ includes any deferred judgments or deferred sentences imposed by a court or judge.

1. No. 07-11, Amy Rebecca Larson, Certification No. B-2519. On July 26, 2007, Respondent pled guilty to and was convicted of one count of Vehicular Eluding, § 18-9-116.5, C.R.S., a class 5 felony. Respondent, through her attorney, submitted a Response for Order to Show Cause pursuant to P.O.S.T. Board Rule 5, both appeared at the September 14, 2007 P.O.S.T. Board Meeting in Fort Collins, Colorado. Hearing 07-11 was continued to December 7, 2007 to allow P.O.S.T. Board Counsel Diane M. Dash an opportunity to review all documents submitted by Ms. Larson and her attorney.

Per P.O.S.T. Rule 9 – Revocation Hearings for Criminal Conduct, (a) A Colorado peace officer certification issued pursuant to § 24-31-305, C.R.S., shall be suspended or revoked by the P.O.S.T. Board if the certificate holder has been convicted of a felony, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305, C.R.S.(2006), or, has otherwise failed to meet the certification requirements established by the Board. For the purposes of this rule, the term ‘conviction’ includes any deferred judgments or deferred sentences imposed by a court or judge.

Ms. Larson was represented by her Attorney Rodger Daley. The Attorney stated that because Ms. Larson pled guilty to and was convicted of the Class 5 Felony, it does not constitute a conviction because of a deferred judgment.

Board Counsel, Diane Dash, stated that a deferred judgment is a conviction under Colorado law. She stated that Weber vs. State Board of Nursing concerned a deferred judgment that was successfully completed whereas Ms. Larson’s deferred judgment was still pending.

Attorney General stated that because of the information provided, the Board would have to entertain a motion that there is a conviction until the deferment is completed.

***Motion made and seconded to revoke
Passed Unanimously***

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2. No. 07-14, Kris Hund, Certification No. B-2732. On September 16, 1986, Respondent pled guilty to and was convicted of one count of Criminal Mischief, § 18-4-501, C.R.S., a class 3 felony. Respondent has submitted a response for Order to Show Cause pursuant to P.O.S.T. Board Rule 5. P.O.S.T. Certificate B-2732 was in error issued on August 19, 1996. Mr. Hund has never served as a Colorado peace officer. Director Kammerzell recommends revocation of Kris Hund's Colorado peace officer certificate No. B-2732.

Director Kammerzell stated that as a result of the scanning project a file was discovered and reviewed and found that Mr. Hund had committed a class 3 felony and was mistakenly issued a P.O.S.T. certificate.

Mr. Hund stated that he was proud to achieve his goals in receiving his P.O.S.T. certification. He stated that he should be allowed to keep his certification and never misrepresented himself.

Director Kammerzell stated that on the original notarized application that Mr. Hund signed, stated that "I have attached a fingerprint card demonstrating that my fingerprints have been processed by the Federal Bureau of Investigation within three years of the date of this application and indicating no convictions of felonies or misdemeanors involving moral turpitude."

Chief Dennis Harrison stated that the Board began the process of cleaning up historical files, and revoked individuals that had never served as peace officers that were convicted of such crimes. Chief Harrison also stated that this process needs to be consistent.

***Motion made and seconded to revoke
Passed Unanimously***

3. No. 07-07, Miguel Antonio Otero, Certification No. B-09746. On May 4, 2007, Respondent pled guilty to and was convicted of one count of Robbery, § 18-4-301(1), C.R.S., a class 4 felony; and pled guilty to and was convicted of 1 count of Theft, § 18-4-401(1), (2)(c), C.R.S., a class 4 felony. Respondent has failed to comply with P.O.S.T. Show Cause Order 07-07 by failing to appear at the scheduled Show Cause Hearing. Director Kammerzell recommends revocation of Miguel Antonio Otero's Colorado peace officer certificate No. B-09746.

***Motion made and seconded to revoke
Passed Unanimously***

4. No. 07-08, Joseph Martin Rael, Certification No. 7245. On May 7, 2007, Respondent pled guilty to and was convicted of one count of False Oath in a Bankruptcy Proceeding, 18 U.S.C. § 152, a federal felony. Respondent has failed to comply with P.O.S.T. Show Cause Order 07-08 by failing to appear at the scheduled Show Cause Hearing. Director Kammerzell recommends revocation of Joseph Martin Rael's Colorado peace officer certificate No. 7245.

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***Motion made and seconded to revoke
Passed Unanimously***

5. No. 07-09, Michael Ernest Macon, Certification No. B-3730. On May 8, 2007, Respondent pled guilty to and was convicted of one count of Theft - \$500 to \$15,000, § 18-4-401(1), (2)(c), C.R.S., a class 5 felony; and pled guilty to and was convicted of one count of Theft - \$100 to \$500, § 18-4-401(1),(2)(b), C.R.S., a class 2 misdemeanor. Respondent has failed to comply with P.O.S.T. Show Cause Order 07-09 by failing to appear at the scheduled Show Cause Hearing. Director Kammerzell recommends revocation of Michael Ernest Macon's Colorado peace officer certificate No. B-3730.

***Motion made and seconded to revoke
Passed Unanimously***

6. No. 07-10, Michelle Lee Crouch, Certification No. B-12658. On July 16, 2007, Respondent pled guilty to and was convicted of one count of Identification Theft, § 18-5-902(1)(a),(f), C.R.S., a class 4 felony. Respondent has failed to comply with P.O.S.T. Show Cause Order 07-10 by failing to appear at the scheduled Show Cause Hearing. Director Kammerzell recommends revocation of Michelle Lee Crouch's Colorado peace officer certificate No. B-12658.

***Motion made and seconded to revoke
Passed Unanimously***

B. P.O.S.T. Rule 9 - Revocation of Peace Officer Certifications – Misdemeanor Convictions:

§ 24-31-305 C.R.S. (2005) A Colorado peace officer certification issued pursuant to subsection (1) or (1.3) of this section shall be suspended or revoked by the P.O.S.T. Board if the certificate holder has been convicted of a felony, or has been convicted on or after July 1, 2001, of any misdemeanor described in subsection (1.5) of § 24-31-305 C.R.S. (2005), or has otherwise failed to meet the certification requirements established by the Board. For purposes of this rule, the term 'conviction' includes any deferred judgments or deferred sentences imposed by a court or judge. Revocation of peace officer certificates based upon conviction(s) of misdemeanor crimes recognized in **§ 24-31-305(1.5) (b) thru (h) (2005)**.

1. No. M07-16, Rayleene A. Lang, Certification No. 15860. On September 4, 2007, Respondent pled guilty to and was convicted of 1 count of First Degree Official Misconduct, § 18-8-404, C.R.S., a class 2 misdemeanor. Respondent has failed to comply with Director's Show Cause Order M07-16. Director Kammerzell recommends revocation of Rayleene A. Lang's Colorado peace officer certificate, No. 15860.

***Motion made and seconded to revoke
Passed Unanimously***

C. Director's Report

Director John Kammerzell

1. 2007 Revocation Actions – Trends

Director Kammerzell reported that since the Board implemented the 44 misdemeanor list in 2002, there have been 157 peace officer revocations. Director Kammerzell stated that he had given only one suspension that had agency support, and also one appeal that had been denied.

10. 2008 Rules Hearing and Manual Review

Director John Kammerzell

* ***Public Announcement of Formal Rule Making Hearing***

A. Summary of Proposed P.O.S.T. Rule Changes

Colorado Department of Regulatory Affairs Review/Response

1. Rule 1 – Definitions

The addition of the “Dimlight” definition.

2. Rule 10 – Conditional Peace Officer Authority and Basic Peace Officer Certification

The present language in Rule 10(a)(I)(D) to be revised to mirror the language in § 24-31-301 (5).

3. Rule 12 – Reserve Certification

The language has been added to complement and mirror the recommendations in Rule 10 and to allow an individual holding conditional authority to request a variance and be issued a Reserve certificate. The recommendation also sets forth a process to renew Conditional Peace Officer Authority.

4. Rule 17 – Certification Records

The language has been added to allow P.O.S.T. to provide every law enforcement agency with an electronic report of certified peace officers as listed members of each agency. The process will simplify the agency and P.O.S.T. process for peace officer appointments and separations.

5. Rule 24 – Skills Training Safety and Skills Program Requirements for Basic and Reserve Academies.

At the recommendation of the P.O.S.T. Arrest Control Tactics SME Committee to strike (6)(VII).

***Motion made and seconded to approve changes
Passed Unanimously***

* ***Public Announcement of Completion of Formal Rule Making***

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6. Overview of the 2008 P.O.S.T. Manual Revision

Director Kammerzell stated that more programs and resources will be added along with changes made to the refresher academy.

Informational Items:

12. 2008 P.O.S.T. Legislation - Update Director John Kammerzell

Director Kammerzell reported that there have been discussions about a twenty-five cent increase needed for continuing training, and that he will be working with the DOL and the legislature to seek legislation to increase the fees collected by P.O.S.T.

13. AOTC/CLEAT – Managing the Training Unit Dean Curd, CSOC

Mr. Curd reported on the development of a Training Manager to help officers with a type of training other than a power point class. The class was presented months prior and about sixteen officers participated. The officers were evaluated by conducting a presentation.

14. P.O.S.T. Peace Officer Records Scanning Project Director John Kammerzell
Deputy Director Steve Zotos

A. Project Activities

Director Kammerzell stated that the scanning of officer files has been going smoothly and all records will be in digital format in a protected system. Director Kammerzell stated that once all information is stored in this system, all hard files will be destroyed.

Deputy Director Zotos stated that there are currently 32,000 officer records on file with P.O.S.T.

15. P.O.S.T. CDOT/NHTSA Grant and Projects Update Director Kammerzell

A. P.O.S.T. ID Cards

B. Colorado Regional Community Policing Institute (CRCPI) Project

1. 8-Hour Supervisor's Course

C. Internet Training Project

1. Peace Officer Access/Registration on February 1, 2008
2. Presentation to the Board on March 7, 2008

Director Kammerzell reported that with the grant fund received by CDOT, P.O.S.T. is able to create P.O.S.T. ID cards for each active officer in Colorado. The grant also funded an 8 hour Supervisory Course and an on-line training course for officers that need to complete the mandatory 8 hour Anti-Bias course.

Deputy Director Zotos stated that the development of the P.O.S.T. ID Card is under way and that this card will allow each officer to register for classes provided by the P.O.S.T. Training Grant, without having to provide personal identifying information (i.e. SS#, DOB, etc.).

16. Request from Aurora Chief Daniel J. Oates Director Kammerzell

A. Reconsideration of “Executive” Certification Category

Director Kammerzell stated at the request had been submitted by Aurora Chief Oats for the Board’s re-consideration of Executives certification.

Director Kammerzell stated that as a result of a 1999 Sub-Committee, this process was recommended to cease and not be considered in the future.

Deputy Director Zotos commented that at one time the Board allowed Law Enforcement Executives from other states not to test under the stipulation that they not act as a certified peace officer. Unfortunately, these individuals moved on to other departments which required certification and they did not have the authority, or in the smaller communities had to act as a peace officer without authority.

The Board did not act on this request.

17. Comments from others

Citizen Joe Thomas-Hazell stated that there should be a standard implemented for locksmiths. He also stated that citizens should be taken seriously when they call for assistance.

Citizen Gregg Bluemel stated concerns about conduct of officers toward him, personally. Attorney General Suthers recommended he seek private counsel and to take each matter up with each agency supervisor.

18. 2008 P.O.S.T. Board Meeting Schedule

A. 2008 Meeting Dates:

Friday, March 7, 2008 – Colorado Department of Law

Friday, June 20, 2008 – Colorado Department of Law

Thursday and Friday, September 18 and 19, 2008 – Canon City, Colorado

Friday, December 5, 2008 – Colorado Department of Law

Next P.O.S.T. Board Meeting (10:00 a.m.) / S.M.E. Meetings (8:00 a.m.)

Friday, March 7, 2008

Colorado Department of Law
1525 Sherman Street, Room 243
Denver, CO 80203

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